

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

DONNA MCLAIN,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:20-CV-00244
)	
SAINT FRANCIS MEDICAL CENTER,)	
)	
Defendant.)	

NOTICE OF REMOVAL

**TO: UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

COMES NOW, Saint Francis Medical Center (hereinafter “Saint Francis” or “Defendant”), by and through its undersigned counsel, and hereby files its Notice of Removal from the Circuit Court of Cape Girardeau County, Missouri to the United States District Court for the Eastern District of Missouri. In support thereof, Defendant respectfully states to this Honorable Court as follows:

A. Circuit Court Action

1. Defendant is named as a party in a civil action brought by Donna McLain (hereinafter “Plaintiff”) in the Circuit Court of Cape Girardeau County, Missouri, Donna McLain v. Saint Francis Medical Center., Case No. 20CG-CC00309 (the “Lawsuit”).

2. On October 19, 2020, Plaintiff Donna McLain served her Summons and Petition upon Defendant (Exhibit 1). A copy of the Return of Service showing service of Plaintiff’s Petition on Defendant on October 19, 2020, is attached (Exhibit 2).

3. A true copy of the Summons and Petition is attached hereto and constitute all process, pleadings and orders served on Defendant. (Exhibit 1).

4. No further proceedings have taken place in this action.

B. The Parties

5. Plaintiff's Petition alleges she is a resident of Cape Girardeau County, Missouri. (Exhibit 1, Petition ¶ 1).

6. Plaintiff's Petition alleges Defendant is a non-profit corporation organized under the laws of the State of Missouri with its principal place of business located at 221 Saint Francis Drive, Cape Girardeau, Missouri 63701. (Exhibit 1, Petition ¶ 2).

C. Plaintiff's Petition

7. The Lawsuit is a civil action alleging Defendant discriminated and retaliated against Plaintiff based upon her age in violation of §701, et seq., as amended, 42 U.S.C. §2000(e), et seq. Exhibit 1, Petition ¶¶ 28-29).

D. Jurisdiction And Basis For Removal

8. This Court has original jurisdiction over the Lawsuit in that Plaintiff's federal claim arises under the aforementioned laws of the United States within the meaning of 28 U.S.C. §1331.

9. This matter is, therefore, properly removed without regard to the citizenship or residence of the parties pursuant to 28 U.S.C. §1441(a).

E. Defendant's Removal Is Timely

10. This Notice of Removal is timely under 28 U.S.C. §1446(b)(1) because it has been filed within 30 days of the service of the initial pleading on Defendant.

F. The Remaining Requirements For Removal Have Been Satisfied

11. The United States District Court for the Eastern District of Missouri, Southeastern Division, embraces Cape Girardeau County, where the Lawsuit is pending.

12. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be promptly filed with the Clerk of the Circuit Court of Cape Girardeau County, Missouri and written Notice of Removal will be provided promptly to Plaintiff through her attorney of record.

WHEREFORE, Defendant provides Notice of Removal of the above-styled Lawsuit pending in the Circuit Court of Cape Girardeau County, Missouri to the United States District Court, Eastern District of Missouri, Southeastern Division.

Respectfully submitted,

McMAHON BERGER, P.C.

/s/Robert D. Younger
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CERTIFICATE OF SERVICE

I certify that on November 17, 2020, I electronically filed the foregoing with the Clerk of the United States District Court for the Eastern District of Missouri by using the CM/ECF system and that a copy of the foregoing was served via first class mail, postage prepaid, upon the following:

John P. Clubb
Laura Clubb
The Clubb Firm, LLC
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Cape Girardeau, MO 63701

Attorneys for Plaintiff

/s/Robert D. Younger